



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

Diane M. Sugimura, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Application Number: 2301753
Applicant Name: Gary Abrahams for T-Mobil USA
Address of Proposal: 455 N 44th St

SUMMARY OF PROPOSED ACTION

Master Use Permit (MUP) to establish use for future installation of a minor communication utility (T-Mobil USA) consisting of three (3) panel antennas on the roof of an existing apartment building. Project includes equipment cabinet located in the basement storage room.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility to exceed the height limit in a Multi-Family Residential Lowrise 1 (L-1) zone pursuant to Seattle Municipal Code (SMC) 23.57.011B.

SEPA - Environmental Determination pursuant to SMC 25.05.

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The subject property, which is developed with a three-story apartment building, is located at the southeast corner of N 44th St and Francis Ave N on the east block front of Francis Ave N, between N 44th St and N 43rd St.

Zoning for the site is Multi-Family Residential Lowrise 1 (L-1). Surrounding zoning to the north, east, south and west is Multi-Family Residential Lowrise 1 (L-1).

Proposal Description

The applicant is proposing a rooftop installation of three (3) sectors of antennas, with one antenna per sector. Each sector will be shrouded by an artificial chimney, and will rise twelve (12) feet higher than the top of the rooftop—a height that achieves coverage objectives



established by the applicant. The artificial chimneys will be painted a color that blends with the building.

The three screened sector locations are proposed as follows: one sector will be oriented to the north, just southwest of the northeast corner of the building; one sector will be oriented to the south, just northwest of the southeast corner of the building; and one sector will be oriented to the southwest, just northeast of the southwest corner of the building.

The proposed rooftop minor communication utility installation and screening is proposed at fifty (50) feet above existing grade. The height limit for the L-1 zone is twenty-five (25) feet above grade, with an exception for minor communication utilities and accessory communication devices permitted to extend a maximum additional height of fifteen (15) feet¹.

Public Comment

The public comment period for this project ended May 28, 2003. No comments were received on the proposal.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Lowrise zone as an Administrative Conditional Use when they meet the development standards of SMC 23.57.011C and the following criteria, as applicable.

- 1. The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

According to the plans, the antennas will conform to codified development standards, visual impacts and design standards of SMC 23.57.011 and 23.57.016. The antennas will be fully screened from any viewed direction for their full height and will use colored materials consistent with the current exterior of the building. The screens are designed to mimic the look of a chimney, thus providing for a facility that is the least intrusive design for this residentially zoned neighborhood.

Some views from neighboring residential structures may be altered by the presence of the facility. The applicant has provided photographic simulated evidence suggesting that the visual intrusions would be minor.

The proposed minor communication utility is not likely to be substantially detrimental to the residential character of the residentially zoned area, and the location of the panel antennas are the least visually intrusive location consistent with effectively providing service and minimizing impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once it is constructed, and cell phone coverage in the area will be improved, which will be beneficial to users in the neighborhood.

¹Refer to SMC 23.57.011C.2.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and the walls of the equipment room will shield any noise associated with the equipment, and no residential dwelling units are displaced.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted, the proposed height of the antennas will be fully screened from view and is inconspicuous as possible, within the parameters of the SMC, while remaining functionally effective. Therefore, the proposal complies with this criterion.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
 - a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
 - b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this criterion does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The proposed height of the minor communication utility is twelve (12) feet above the rooftop, with a total height of fifty (50) feet². Documentation within the MUP file, provided by the applicant, demonstrates the need for the requested height is the minimum necessary for the effective functioning of the minor communication utility; the proposal complies with this criterion.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this criterion does not apply to the subject proposal.

SUMMARY

The proposed project is consistent with the Administrative Conditional Use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not

² The height in the L-1 zone is twenty-five (25) feet.

require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated April 16, 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impacts policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

Long-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and

Certification” for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department’s experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

1. The artificial chimneys shall be painted a color that blends with the building.

SEPA CONDITIONS

During Construction - The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

2. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: October 13, 2003
Colin R. Vasquez, Land Use Planner
Department of Design, Construction and Land Use